

STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE:	Hazel Tidwell)	
	Map 117-09-0B, Parcel 12.00 CO)	Davidson County
	Residential Property)	
	Tax Year 2005)	

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$ 65,000	\$367,500	\$432,500	\$108,125

An Appeal has been filed on behalf of the property owner with the State Board of Equalization on September 4, 2005.

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. The case was previously set for a hearing before Administrative Judge Pete Loesch, however, it was continued for further exchange of discovery. This hearing was conducted on October 11, 2006, at the State Department of Revenue in Davidson County; present at the hearing were Gania Clayton, the daughter of the taxpayer who is also a real estate broker at Fridrich & Clark, and Mr. Jason Poling, Residential Appraiser, Division of Assessments for the Metro. Property Assessor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence located at 122 Longwood Place in Nashville, Tennessee.

The taxpayer's representative contends that the property is worth between \$330,000 and \$335,000 based on her 20 years of experience in the real estate business. Ms. Clayton also stated that she had a real estate appraisal done by Richard Eaton¹, a person she believes is a highly respected real estate appraiser who valued her mother's home at \$360,000, a little high in her opinion but still lower than the County's figures. Ms. Clayton believes that the neighborhood in which the subject property is located has 90% of its homes occupied by people 65 or older and since her mother's home is a 2 story home, that should reduce the value because it would not be desirable on the open market since there are several stairs, the homes' value should be reduced.

¹ Mr. Eaton did not testify at the 10-11-06 hearing nor does it appear that the appraisal report was ever marked as an exhibit at the previous hearing.

The assessor contends that the property should be valued at \$394,100.² In support of this position, four (4) comparable sales were introduced and are marked as exhibit number three and are part of the record in this cause.

The germane issue is the value of the property as of January 1, 2005. The basis of valuation as stated in T.C.A. § 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values"

After having reviewed all the evidence in this case, the administrative judge finds that the subject property should be valued at \$ 394,100 based upon the presentation of the documents by the County Representative. There are typically three (3) approaches to estimate the fair market value of property: the sales comparison approach, the cost approach and the income approach. The property in this appeal is residential property. When looking at opinions of value the sales comparison approach is most reliable.

In a decision of the State Board of Equalization on April 10, 1984 in *Laurel Hills Apartments, et. al.* (Davidson County, Tax Years 1981 and 1982, holds that "as a matter of law property in Tennessee is required to be valued and equalized according to the 'Market Value Theory'."

As stated by the Board, the Market Value Theory requires that property "be appraised annually at full market value and **equalized by application of the appropriate appraisal ratio** . . ." *Id.* at 1. (emphasis added).³

The Assessment Appeals Commission further elaborated upon the concept of equalization in *Franklin D. & Mildred J. Herndon* (Montgomery County, Tax Years 1989 and 1990) (June 24, 1991), when it rejected the taxpayer's equalization argument reasoning in pertinent part as follows:

In contending the entire property should be appraised at no more than \$60,000 for 1989 and 1990, the taxpayer is attempting to compare his appraisal with others. There are two flaws in this approach. First, while the taxpayer is certainly entitled to be appraised at no greater percentage of value than other taxpayers in Montgomery County on the basis of equalization, the assessor's proof establishes that this property is not appraised at any higher percentage of value than the level prevailing in Montgomery County for 1989 and 1990. That the taxpayer can find other properties which are more under appraised than average **does not entitle him to similar treatment.** Secondly, as was the case before the administrative judge, the taxpayer has produced an impressive number of "comparables" but has not **adequately indicated**

² This figure is lower than the MBOE figures.

³ This is how Mr. Poling came up with his figures, it is not how Ms. Clayton came up with hers.

how the properties compare to his own in all relevant respects. . . . (emphasis added) Final Decision and Order at 2.

See also *Earl and Edith LaFollette*, (Sevier County, Tax Years 1989 and 1990) (June 26, 1991), wherein the Commission rejected the taxpayer's equalization argument reasoning that "[t]he evidence of other tax-appraised values might be relevant if it indicated that properties throughout the county were under appraised . . ." Final Decision and Order at 3.

Since the taxpayer is appealing from the determination of the Davidson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Control Board*, 620 S.W. 2d 515 (Tenn.App. 1981).

With respect to the issue of market value, the administrative judge finds that Ms. Clayton simply introduced insufficient evidence to affirmatively establish the market value of subject property as of January 1, 2005, the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a).

The administrative judge finds that rather than averaging comparable sales, **comparables must be adjusted**. As explained by the Assessment Appeals Commission in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) as follows:

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. **Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments.** If evidence of a sale is presented **without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .** Final Decision and Order at 2. (Emphasis supplied)

In analyzing the arguments of the taxpayer, the administrative judge must also look to the applicable and acceptable standards in the industry when comparing the sales of similar properties as the taxpayer did here.

The administrative judge finds that the procedure normally utilized in the sales comparison approach has been summarized in one authoritative text as follows:

To apply the sales comparison approach, an appraiser follows a systematic procedure.

1. Research the competitive market for information on sales transactions, listings, and offers to purchase or sell involving properties that are similar to the subject property in terms of characteristics such as property type, date of sale, size, physical condition, location, and land use constraints. The goal is to find a set of comparable sales as similar as possible to the subject property.

2. Verify the information by confirming that the data obtained is factually accurate and that the transactions reflect

arm's-length, market considerations. Verification may elicit additional information about the market.

3. Select relevant units of comparison (e.g., price per acre, price per square foot, price per front foot) and develop a comparative analysis for each unit. The goal here is to define and identify a unit of comparison that explains market behavior.

4. Look for differences between the comparable sale properties and the subject property using the elements of comparison. Then **adjust the price of each sale property to reflect how it differs from the subject property or eliminate that property as a comparable.** This step typically involves using the most comparable sale properties and then adjusting for any remaining differences.

Reconcile the various value indications produced from the analysis of comparables into a single value indication or a range of values. [Emphasis supplied] Appraisal Institute, *The Appraisal of Real Estate* at 422 (12th ed. 2001). Andrew B. & Majorie S. Kjellin, (Shelby County, 2005)

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$65,000	\$329,100	\$394,100	\$98,525

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

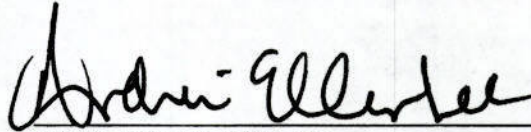
Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 3rd day of November, 2006.



ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF TENNESSEE
ADMINISTRATIVE PROCEDURES DIVISION

c: Ms. Gania Clayton
Jo Ann North, Assessor of Property